

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS**

ROB MACINNIS

PLAINTIFF

V.

CASE NO. 5:19-cv-05160-TLB

HALLEAHWOOD DESIGNS, LLC

DEFENDANT

ANSWER TO COMPLAINT

Defendant Halleahwood Designs, LLC (“Halleahwood”), for its answer to the Complaint of Rob Macinnis (“Plaintiff”), states:

JURISDICTION, PARTIES, & VENUE

1. Halleahwood admits that the Complaint purports to assert a copyright infringement claim arising under the Copyright Act. Halleahwood denies the remaining allegations of paragraph 1.

2. Halleahwood admits that the Complaint alleges a claim arising under the Copyright Act and that such claim falls within the subject matter jurisdiction of this Court as alleged in paragraph 2 of the Complaint.

3. Halleahwood admits that this Court has personal jurisdiction as alleged in paragraph 3 of the Complaint.

4. Halleahwood admits that venue is proper as alleged in paragraph 4 of the Complaint.

5. Halleahwood lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 5 of the Complaint and therefore denies those allegations.

6. Halleahwood admits the allegations set forth in paragraph 6 of the Complaint.

FACTUAL ALLEGATIONS

7. Halleahwood lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 7 of the Complaint and therefore denies those allegations.

8. Halleahwood lacks information sufficient to form a belief as to the truth of the allegations set forth in paragraph 8 of the Complaint and therefore denies those allegations.

9. Halleahwood states that a photograph appears to have been registered with the Copyright Office and given Copyright Registration Number VA 2-159-401 (the “401 Registration”), but Halleahwood lacks information sufficient to form a belief as to nature or identity of the photograph subject to the 401 Registration as alleged in paragraph 9 of the Complaint and therefore denies those allegations.

10. Halleahwood admits that it sold a design featuring a photograph depicting farm animals on its website for \$5.00, but denies that the photograph sold by Halleahwood is the same photograph subject to the 401 Registration as alleged in paragraph 10 of the Complaint.

11. Halleahwood admits that it has not entered into any license agreement or other agreement with Plaintiff regarding any photograph, but denies that the photograph sold by Halleahwood is the same photograph subject to the 401 Registration as alleged in paragraph 11 of the Complaint.

CAUSE OF ACTION

12. In response to the assertions of paragraph 12, Halleahwood incorporates by reference its responses to paragraphs 1-11 of the Complaint.

13. Halleahwood admits that it has never entered a license agreement or other agreement with Plaintiff for any photograph, but denies that it has reproduced or publicly displayed the photograph subject to the 401 Registration. Halleahwood denies that it has infringed Plaintiff's copyrights as alleged in paragraph 13 of the Complaint.

14. Halleahwood denies the allegations of paragraph 14 of the Complaint.

15. Halleahwood denies the allegations of paragraph 15 of the Complaint.

16. Halleahwood denies the allegations of paragraph 16 of the Complaint.

17. Halleahwood denies the allegations of paragraph 17 of the Complaint.

18. Halleahwood denies the allegations of paragraph 18 of the Complaint.

19. Halleahwood denies that Plaintiff is entitled to the relief sought in the prayer for relief and the paragraph beginning "WHEREFORE." including subparagraphs (a) through (d) inclusive.

20. Halleahwood denies each and every material allegation of the Complaint not specifically admitted herein.

**FIRST AFFIRMATIVE DEFENSE
(Failure to State a Claim)**

21. The complaint, or one or more counts set forth therein, fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE
(Lack of Standing)**

22. Plaintiff lacks standing to request relief in this action because he has not properly demonstrated or proven standing to request the relief being sought.

**THIRD AFFIRMATIVE DEFENSE
(Noninfringement)**

23. Plaintiff's claims are barred, in whole or in part, because Halleahwood is not infringing, and has not in the past infringed, any of Plaintiff's copyrights.

**FOURTH AFFIRMATIVE DEFENSE
(Invalidity or Unenforceability of Copyright)**

24. Plaintiff's claims are barred, in whole or in part, because Plaintiff's copyrights are invalid and/or unenforceable, including by reason of lack of originality and lack of copyrightable subject matter.

**FIFTH AFFIRMATIVE DEFENSE
(Fair Use)**

25. Plaintiff's claims are barred, in whole or in part, because the alleged violations of copyrights by Halleahwood are *de minimis*, nominative, and/or fair uses permitted under law.

**SIXTH AFFIRMATIVE DEFENSE
(Copyright Misuse)**

26. Plaintiff's claims are barred, in whole or in part, because he has engaged in one or more acts that have misused his copyrights.

**SEVENTH AFFIRMATIVE DEFENSE
(Estoppel)**

27. Plaintiff's claims are barred, in whole or in part, by estoppel.

**EIGHTH AFFIRMATIVE DEFENSE
(Laches)**

28. Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.

**NINTH AFFIRMATIVE DEFENSE
(Waiver)**

29. Plaintiff's claims are barred, in whole or in part, by waiver.

**TENTH AFFIRMATIVE DEFENSE
(Authorized Use, License, Consent, Acquiescence)**

30. Plaintiff's claims are barred, in whole or in part, by license or the doctrine of implied license because Plaintiff impliedly or explicitly, directly or indirectly, authorized, licensed, consented to, or acquiesced to Halleahwood's allegedly infringing use of Plaintiff's copyrighted work.

**ELEVENTH AFFIRMATIVE DEFENSE
(Innocent Intent)**

31. Plaintiff's claims are barred, in whole or in part, because Halleahwood's conduct was in good faith and with non-willful intent at all times.

**TWELFTH AFFIRMATIVE DEFENSE
(No Willful Infringement)**

32. Plaintiff's claims as to enhanced damages and an award of fees and costs against Halleahwood are barred, in whole or in part, because they have no basis in fact or law.

**THIRTEENTH AFFIRMATIVE DEFENSE
(First Amendment)**

33. Plaintiff's claims are barred, in whole or in part, to the extent Halleahwood's actions and speech are protected by the First Amendment of the Constitution of the United States.

**FOURTEENTH AFFIRMATIVE DEFENSE
(Merger)**

34. Plaintiff's claims are barred, in whole or in part, by the doctrine of merger.

**SIXTEENTH AFFIRMATIVE DEFENSE
(No Registration)**

35. Plaintiff's claims are barred, in whole or in part, because Plaintiff has failed to meet the registration requirements to bring suit and/or to seek statutory damages under the Copyright Act.

**SIXTEENTH AFFIRMATIVE DEFENSE
(Lack of Ownership)**

36. Plaintiff's claims are barred, in whole or in part, because Plaintiff does not own the work of authorship that forms the subject of the claims for relief.

**SEVENTEENTH AFFIRMATIVE DEFENSE
(Abandonment)**

37. Plaintiff's claims are barred, in whole or in part, because Plaintiff has abandoned its copyrights in the work of authorship that forms the subject of the claims for relief.

**EIGHTEENTH AFFIRMATIVE DEFENSE
(Unclean Hands)**

38. Plaintiff's claims are barred, in whole or in part, under the doctrine of unclean hands.

WHEREFORE, Defendant Halleahwood Designs, LLC respectfully asks this Court to dismiss Plaintiff's complaint with prejudice; for its costs and fees associated with the filing of this answer; and for all other relief to which it may be entitled.

Respectfully submitted,

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